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December 6, 2005

James "Ty" Hughes, Esq.
Deputy General Counsel for Acquisition Policy
United States Airforce
In care of Ms Laura Auletta
Designated Federal Officer
Acquisition Advisory Panel

VIA EMAIL: laura.auletta@gsa.gov

Re: Acquisition Advisory Panel Commercial Practices Working Group / Concerns

Dear Deputy General Counsel Hughes:

We are writing to you in your capacity as Chairman of the Commercial Practices Working Group of the Acquisition Advisory Panel (the "Panel," also called the "Section 1423 Panel"). We previously submitted our preliminary views and recommendations to the Panel in a paper entitled, "The Need For More Regulatory and Statutory Reform To Provide For More Equitable Payment Of Interest In Disputes, Claims And Similar Situations" (the "Interest Paper"), and made a brief oral presentation to the Panel concerning these matters on June 14, 2005. On August 15, 2005, we submitted supplementary material, including recommended statutory language changes, which had been requested by various Panel members on June 14.

A great deal of the effort of the Panel and of the Commercial Practices Working Group has involved confirming the benefits to the Government buyer of competition and using commercial practices. A major theme of our views and recommendations as set forth in our Interest Paper is that current Government policies as well as Government practices on payment of interest are grossly unfair to suppliers and inconsistent with commercial practices. Such policies make truly equitable and timely resolution of disputes extraordinarily difficult, costly, and—in many cases—impossible. We believe that it is axiomatic that the expectation of equitable dispute resolution is fundamental to healthy and vigorous competition. The same point was made by Professor William Kovacic in his October 27, 2005 presentation to the Panel, in which he said that competition requires "credible commitments," and that one of the primary commitments that attracts sellers is "resolving disputes fairly."

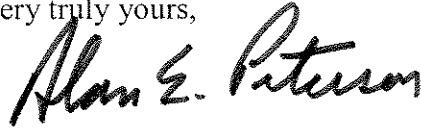
The remedies we propose to correct current interest unfairness are relatively straightforward and statutorily easy to accomplish: in essence, to increase interest coverage protection to all contractual situations and to modify the timing and rate determination of existing Government interest payment calculation rules to approximate more closely real world commercial interest costs. We note that our proposals would apply only when amounts are found due contractors. We are not suggesting any other extension of contractor rights or Government obligations.

We are quite concerned now because the preliminary findings of the Commercial Practices Working Group presented at the November 18, 2005 public meeting do not mention any of the issues discussed in our Interest Paper. Nor have we received any follow-up questions or responses to our offers to meet with your Working Group or the Panel further to explain or support our recommendations. We appreciate the exceedingly difficult and wide-ranging nature of the tasks facing the Panel and its Working Groups and the limited time available. We urge that the statutory changes we have set forth would enhance fairness and align government contracting more closely with commercial practices. If the Panel finds that it must give priority to other subjects, we understand.

Our intention, then, would be to put our interest recommendations directly to Congress and its staff. Should that become necessary, we want there to be no question that the Panel did not reject our recommendations. Thus, if the Panel is unable to act on our recommendations, we ask that the record be made clear that the Panel did not reach or decide the merits of our views.

Thank you.

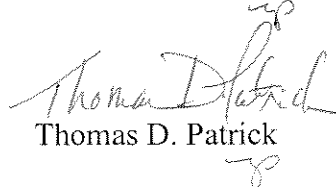
Very truly yours,



Alan E. Peterson



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